

S.I. 28 OF 1996

FINANCIAL INSTITUTIONS ACT

(Cap 79)

Financial Institutions (Domestic Banking Business)

Regulations, 1996

In exercise of the powers conferred by sections 4, 9, 20 and 56 of the Financial Institutions Act, the Minister of Finance and Communications after consultation with the Central Bank hereby makes the following Regulations -

1. These Regulations may be cited as the Financial Institutions (Domestic Banking Business) Regulations, 1996.

Citation

2. In these Regulations -

"assigned capital" or "paid up capital" means, subject to section 2 of the Act, the amount of money contributed by the shareholders of a financial institution for the conduct of banking business but does not include credit facilities granted to it by the shareholders;

Interpretation

"credit facilities" means -

(a) any advance, loan or other facility in whatever form or by whatever name called, by the giving of which the person to whom it is given has access, directly or indirectly, to the funds of the person giving it;

(b) any liability whatsoever incurred on behalf of any person;

"external account" means an account of a non-resident maintained in Seychelles rupees or in any foreign currency.

"non resident" means -

(a) a person, being an individual, who is not resident in Seychelles,

- (b) a person, being a corporate or incorporate body, which is not established and operating in Seychelles;
- (c) a business carried on outside Seychelles, and includes a citizen of Seychelles who is not resident in Seychelles;

"resident account" means an account other than an external account.

Additional
particulars in
an
application
for a licence

3.(1) The Central Bank may require an applicant for a licence to conduct domestic banking business to includes in its application under section 4 of the Act -

- (a) a list of all persons, with their addresses and nationalities, who are registered shareholders of the applicant, distinguishing the shareholdings of each shareholder and a list of all persons with their addresses and nationalities, who are beneficial owners of shares of the applicant but are not registered shareholders, distinguishing the shares of each such beneficial owner and two or more references verifying the good financial standing of each such shareholder or beneficial owner;
- (b) a statement that every person appointed or elected as director, manager or other officer concerned with the management of the applicant is qualified for appointment or election under section 32 of the Act;
- (c) in the case of a foreign financial institution, a statement that the authority responsible for supervision of banking in the country under the laws of which the

financial institution is formed is aware of the application;

- (d) where the instrument under which the applicant company is formed is not in the English Language, a translation of the instrument in the English language;
- (e) three references, one of which shall be financial in nature from an internationally reputable financial institution, other than the applicant, in respect of the directors, managers or other officers concerned with the management of the applicant;
- (f) the name, address and professional qualification of the auditor proposed to be appointed under section 28 of the Act; and
- (g) a business plan setting out details of the commercial activities in which the applicant intends to engage in if a licence is granted.

(2) The application made under section 4 of the Act shall be accompanied by the application processing fee specified in the First Schedule.

4.(1) . For the purposes of section 20 of the Act -

- (a) a local financial institution, being a bank, conducting domestic banking business shall have and continue to maintain in Seychelles paid up capital of not less than ten million rupees after deduction of the accumulated losses of the institution;
- (b) a foreign financial institution, being a bank, conducting domestic banking business shall have and continue to maintain in Seychelles assigned capital,

Capital
require-
ment

being capital transferred from outside Seychelles or from such other funds as may be determined by the Central Bank, of not less than ten million rupees after deduction of accumulated losses of the institution;

- (b) any other financial institution declared under section 58(3) of the Act conducting domestic banking business shall have and continue to maintain in Seychelles paid up capital or assigned capital or such other funds as may be determined by the Central Bank of not less than five million rupees after deduction of the accumulated losses of the institution.

(2) Notwithstanding subregulation (1), a financial institution carrying on domestic banking business under the Act at the commencement of these Regulation may comply with the capital requirements prescribed under that subregulation within a period of one year or within such longer period as the Central Bank may at its discretion authorise in writing after the commencement of these Regulations.

(3) The paid up capital, assigned capital and other funds, as the case may be, of a financial institution conducting domestic banking business and required to be maintained under subregulation (1) shall remain invested in the manner specified in the Financial Institution (Minimum Capital) Regulations.

5.(1) A financial institution conducting domestic banking business may, with the prior written approval of the Central Bank, authorise a non-resident to open an external account with that institution.

Cap.79
Sub.
Leg.p.1

External
account

(2) A non-resident authorised by a financial institution to open an external account under subregulation (1) may open one or more than one external account with that institution.

(3) An account opened under subregulation (1) shall be clearly designated as an external account by the financial institution in all documents and transactions relating to that account.

(4) Where a citizen of Seychelles emigrates to another country with the permission of the immigration authority of that country and takes up residence in that country, that citizen may, with the prior written approval of the Central Bank, be authorised by a financial institution to open an external account in addition to any resident account held by him in that institution.

(5) Where a holder of an external account takes up residence in Seychelles with the permission of the immigration authorities of Seychelles, the external account held by the holder of that account shall cease to be an external account of the holder, shall be redesignated as a resident account and any funds in that account in foreign currency shall stand converted into Seychelles rupees as a resident account at the rate of exchange prevalent on the date the account ceased to be an external account.

(6) A financial institution shall not, unless permitted by the Central Bank, authorise the deposit of Seychelles rupees in an external account unless those funds are derived -

- (a) from a source outside Seychelles;
- (b) from the sale of foreign currencies in Seychelles; or
- (c) from any source approved in writing by the Central Bank.

(7) The deposit of Seychelles rupees in an external account authorised under subregulation (1) or subregulation (4) shall be made in a manner and form approved by the Central Bank.

(8) A financial institution may allow overdraft and other credit facilities on an external account in such amount as may be from time to time determined by the Central Bank.

(9) A financial institution shall, as soon as is practicable, furnish the Central Bank the name and address of each holder of an external account.

(10) Without prejudice to the definition of non-resident in regulation 2 the following persons shall, for the purpose of subregulation (1) of this regulation, be deemed to be non-residents -

Act 24 of
1994

(a) International Business Company incorporated under the International Business Companies Act, 1994;

Act 26 of
1994

(b) International trust declared under section 75 of the International Trusts Act, 1994;

Act 8 of
1995

(c) Holder of a licence under section 6 of the International Trade Zone Act, 1995;

Cap.79

(d) a holder of a licence to conduct non-domestic banking business under the Financial Institutions Act;

Act 28 of
1994

(e) an insurer carrying on non-domestic insurance business under the Insurance Act, 1994;

(f) an insurance manager or a principal insurance representative approved under the Insurance Act, 1994.

Business
affairs
contrary to
law or
detrimental
to
reputation
of
Seychelles

6. Where a financial institution conducting domestic banking business has reasonable grounds to believe that any holder of any

account with that institution or any other person transacting business with that institution is conducting business affairs which are or are likely to be contrary to the laws of Seychelles or are or are likely to be detrimental to the reputation of Seychelles, the financial institution shall forthwith notify in writing that fact to the Central Bank and furnish the Central Bank the full particulars thereof known to the financial institution.

Notification
of change

7. A financial institution conducting domestic banking business shall notify the Central Bank of -

- (a) In the case of a local financial institution, any change in the registered shareholders or in the shareholdings of the institution within 21 days of such change or becoming aware of such change, whichever is the later, where 5% or more of the paid up capital is held or would be held by one shareholder;
- (b) any change in the directors, managers or other officers concerned with the management of the institution within 21 days of such change;
- (c) any change in the auditors of the institution within 21 days of such change and, if so required by the Central Bank, the reasons for such change.

8.(1) A financial institution conducting domestic banking business shall not issue bearer shares nor shall be authorised by the instrument under which it is formed to issue bearer shares.

Bearer
shares
prohibited

(2) Where a company is a shareholder of a financial institution conducting domestic banking business, that company shall not issue bearer shares nor shall be authorised by the instrument by which it is formed to issue bearer shares.

9.(1).. A financial institution shall, on the grant of a licence to conduct domestic banking business, pay before the commencement of such business the annual fees specified in the First Schedule and thereafter shall pay for each subsequent year the annual fee at or before the time specified in section 9(3) of the Act.

Annual fees

(2) Where a licence of a financial institution conducting domestic banking business ceases to be valid under section 9(3) of the Act, the financial institution shall, in applying for a licence under section 4 of the Act, be liable to pay a surcharge equal to 10% of the annual licence fee for each month that has elapsed between the date on which the licence ceased to be valid and the date of lodging of the application, unless the Central Bank is satisfied that the financial institution has since the date on which the licence ceased to be valid, ceased to carry on banking business.

10.(1)A licence to conduct domestic banking business shall be in the Form in the Second Schedule.

Form of
licence

FIRST SCHEDULE

FEES

Application processing fees	R1000.00
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The annual fee shall be -

- | | |
|--|------------|
| (a) in the case of a financial institution, being a bank - | |
| (i) with its head office in Seychelles | R15,000.00 |
| (ii) with Its head office outside Seychelles | R30,000.00 |
| (b) in the case of any other financial institution - | |
| (i) with its head office in Seychelles | R10,000.00 |
| (ii) with its head office outside Seychelles | R20,000.00 |

SECOND SCHEDULE



REPUBLIC OF SEYCHELLES

The Financial Institutions Act

(Cap 79)

The Financial Institutions (Domestic Banking Business) Regulations 1996

Licence to Conduct

Domestic Banking Business

Licence No:

1. _____, being a financial institution incorporated in _____ and having its Head Office at _____, is hereby granted a

Domestic Banking Licence

to conduct banking business under the Financial Institutions Act

2. The licensee is permitted under sections 11(1) of the Financial Institutions Act to use the word "Bank" in the title or description of its business.
3. The licence is issued under and subject to provisions of the Financial Institutions Act, and these Regulations and any other Regulations, as amended from time to time, made under that Act and subject also to the conditions, if any, set out hereunder.

Conditions

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Dated at Victoria, Republic of Seychelles
this ____ of _____, 199__.
Central Bank of Seychelles
